

ISSUING SOLICITATIONS
WHEN PERFORMING THE A-76 COST COMPARISON PROCESS

This guidance augments DoD Instruction 4100.33, *Commercial Activities Program Procedures*, September 9, 1985 (Paragraphs E.3.b. and E.3.f.).

When performing an A-76 cost comparison, DoD Components shall follow the procurement process as required by the Federal Acquisition Regulation (FAR) and as supplemented by the Defense FAR Supplement (DFARS) and Component supplements.

Market research conducted in accordance with FAR Part 10 ensures that a more educated approach is taken during the A-76 cost comparison process by determining best commercial practices for conducting similar procurements. DoD Components shall obtain industry and Government comments on a draft version of a performance work statement (PWS) to the maximum extent practicable. Early exchanges of information such as pre-proposal conferences, site visits, and others as discussed in FAR Part 15.201, are encouraged. Acquisition planning shall be conducted in accordance with FAR Part 7, and source selection evaluation criteria shall be developed in accordance with FAR 15.304. FAR 15.304(d) provides that “[a]ll factors and significant subfactors that will affect contract award and their relative importance shall be stated clearly in the solicitation (10 U.S.C. 2305(a)(2)(A)(i) and 41 U.S.C. 253a(b)(1)(A)) (see 15.204-5(c)).” In determining evaluation factors for the competition among the private sector and ISSA offerors, DoD Components shall consider making cost at least as important as non-cost factors for the Cost Technical/Tradeoff process in order to increase the competitiveness of the cost comparison between the government and the selected contract/ISSA offer. This should be considered in order to achieve a more level playing field between the industry and government offers as well as to promote a more competitive environment. If appropriate, the procedures of FAR 12 may be used to conduct the procurement.

It is in everyone’s best interest to encourage and facilitate a fair and equitable competitive environment. Above all, ensure that high standards of integrity, objectivity, and consistency are maintained throughout the A-76 cost comparison process. DoD Components and commanders/directors shall remain impartial during the cost comparison process and never intend nor promote a specific outcome (i.e., in-house, contract) for the A-76 cost comparison process.

Solicitations for the A-76 cost comparison process shall include a PWS (as required by the OMB Circular A-76 Revised Supplemental Handbook) and a well-prepared PWS is the key to the successful outcome of the A-76 cost comparison process. To that end, the PWS shall contain all technical requirements and those requirements, if addressed elsewhere in the solicitation, must be consistently stated therein. This includes any required performance levels, quality and/or standards. It is essential that the PWS be sufficiently comprehensive to ensure that in-house or contract performance satisfies Government requirements. The focus of the PWS shall be on “what” (i.e., outcomes)

the Government requires and not “how” (i.e., processes) the requirements are to be performed. It is also essential to use experienced personnel and lessons learned for developing a PWS. Any type of performance-based technical requirements document (e.g., PWS, statement of objectives (SOO), statement of need (SON), performance requirements document (PRD), statement of work (SOW), technical requirements document (TRD), etc.) is permitted in the solicitation when performing the A-76 cost comparison process. In accordance with the OMB Circular A-76 Revised Supplemental Handbook, Part 1, Chapter III, Paragraph C, “[a]gencies should not consider a PWS that limits the options available for providing the required product or service, or otherwise unnecessarily restricts private sector participation as being in compliance with Circular A-76 or [the Revised Supplemental Handbook].” The objective is to ensure that a PWS includes all relevant information, e.g., services required and standards of performance. It is essential that a PWS:

- Be geared toward best commercial practices (to the maximum extent practicable) as identified through market research.
- Describe all work in terms of “what” the required service output is rather than “how” the work is to be performed or the number of work hours to be provided, except when deemed essential by functional activity for safety and/or security reasons.
- Include measurable performance objectives to encourage offerors to develop and institute innovative and cost-effective methods of performing the work.
- Include historic and projected workload data (to include surge and other requirements).
- Cite reference instructions, publications, etc., by specific paragraph or chapter rather than by the entire publication.

Additionally, where private sector consultants are assisting DoD Components in preparing both a PWS and Management Plan for a specific A-76 cost comparison, sufficient measures shall be taken to avoid potential conflicts of interest in accordance with FAR Part 9 or the appearance of such conflicts. These measures shall include, at a minimum, sufficient “firewalls” within the private sector consultant to prevent the same individuals from both developing the PWS and assisting in preparation of the MEO. The contractor developing the PWS should develop the PWS as broadly as possible to allow for varying solutions (as appropriate) and the PWS must not be written solely to favor the in-house or contractor offer.